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COMMISSION ON HUMAN RIGHTS

Fifty-sixth session

SUMMARY RECORD OF THE 27th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 5 April 2000, at 10 a.m.

Chairman	Mr. SIMKHADA	(Nepal)
later	Mr. IBRAHIM (Vice-Chairman)	(Sudan)
later	Mr. SIMKHADA (Chairman)	(Nepal)

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GE.00-12387 (E)

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

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(c) FREEDOM OF EXPRESSION;

(d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY;

(e) RELIGIOUS INTOLERANCE;

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The meeting was called to order at 10.10 a.m.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 10) (continued) (E/CN.4/2000/6 and Add.1-2, 46 and Add.1, 47-49, 51, 52/Add.1 and 53; E/CN.4/2000/NGO/13, 14, 32, 34, 40, 46, 49, 61, 76, 77, 90, 93, 94, 113, 125 and 140; CHR/RES/1998/25 and 26; E/CN.4/Sub.2/1999/10 and 12; E/CN.4/1999/48 and 49; E/1999/55; A/54/222 and Add.1 and 316)

1. Mr. CONTRERAS (Andean Commission of Jurists) said that the realization of economic, social and cultural rights depended on a number of factors, many of which were beyond the control of States. Financial institutions had a steadily increasing influence on the use of national resources and policy-making. The issue of economic and political sovereignty was therefore integral to the current agenda item. Economic, social and cultural rights were closely linked to poverty, which was largely a function of the distribution of resources, and the gap between rich and poor was steadily widening. Other major problems were unemployment and underemployment.

2. Policy in all the Andean countries was determined by the need to service foreign debt, on average, 20 per cent of the budget being earmarked for that purpose. The situation in Bolivia and Ecuador was particularly bad. Despite recent reforms, the economic situation in Bolivia made it impossible for the country to improve its access to economic, social and cultural rights whereas, in Ecuador, the economic situation had caused a social conflict and the downfall of the President. In Ecuador, the Government's room for manoeuvre was severely limited and it had no choice but to apply the solutions dictated by the international financial organizations, with the result that a fresh political crisis was more than likely, one that could have even more serious consequences.

3. Mr. Ibrahim, (Sudan), Vice-Chairman, took the Chair.

4. Mr. EMMANUEL (Interfaith International) said that he wished to bring to the Commission's notice the escalating violations of the humanitarian, social and cultural needs of the Tamil people perpetrated by the Sri Lankan Government. That Government was enforcing an inhuman economic blockade against the Tamil people living in the north east of the country. International non-governmental organizations (NGOs) were also affected by the blockade. The Government was using the economic blockade and mass arrests of Tamil civilians as weapons of war and as a means of causing the slow but sure genocide of the Tamil people.

5. He welcomed the latest initiative by the Norwegian Government to bring the conflicting parties together for peace talks, and regretted the vehement opposition to those initiatives by Sinhala Buddhist prelates. No meaningful peace talks could take place, however, without the de-escalation of the war and the removal of all repressive measures against the Tamil people.

6. Mr. THOMPSON (Australian Council for Overseas Aid) said that his organization shared the concerns of the Special Rapporteur on the situation of human rights in Myanmar, as reflected in his most recent report (E/CN.4/2000/3). The ethos and practice of militarism by the Government of Myanmar contributed to the denial of the economic, social and cultural rights of its people. Their rights to food and education were being systematically violated. The country

had once had one of the highest literacy rates in the world and a superb education system. Currently, however, the use of local or ethnic languages in schools was prohibited and teachers were jailed and tortured for teaching in non-Burman languages. Primary school students had to join the civilian arm of the military in order to graduate to secondary level. Training programmes opened in response to international criticism appeared to have been used to attract finance for the military and as a public-relations exercise. The limited access afforded to the International Committee of the Red Cross (ICRC) would do nothing to stem increasing impoverishment while the Government continued to increase military expenditure.

7. The Commission must urge the Government of Myanmar to allow the Special Rapporteur to visit the country. His organization supported the call by the Asian Legal Resource Centre for the establishment of an international commission to examine the denial of the right to food, which was a crime against humanity, punishable under international law.

8. Mr. Simkhada (Nepal) resumed the Chair.

9. Mr. MASOOD (World Muslim Congress) said that it was ironic that such a sharp contrast existed between theory and practice in respect of economic, social and cultural rights. The reality of that contrast was particularly evident in formerly colonized developing countries. Under colonial rule, the peoples of such countries had no control over their destinies or natural resources. Peoples, such as the Kashmiris and the Palestinians, living under an aggressor or an occupying Power, were systematically denied their economic, social and cultural rights.

10. The joint report of the Special Rapporteur on foreign debt and the independent expert on structural adjustment policies (E/CN.4/2000/51) presented a realistic analysis of the third-world debt problem and the heavily indebted poor countries (HIPC) initiative. That initiative and the International Monetary Fund (IMF) Enhanced Structural Adjustment Facility (ESAF) was merely a way for the IMF and the World Bank to control the national development policies of poor and indebted countries. Meanwhile, United Nations agencies such as the United Nations Development Programme (UNDP) were mere onlookers, and the Office of the High Commissioner for Human Rights (OHCHR) lacked the technical expertise to play any role in that regard.

11. That situation must be rectified forthwith. Extreme poverty was one of the main challenges faced by the international community. He therefore welcomed the importance attached by the Commission to the elaboration of a declaration on the issue of extreme poverty and human rights.

12. Mr. KHALID (Muslim World League) said that the link between civil and political rights and economic, social and cultural rights was apparent not only to human rights defenders but also to the perpetrators of human rights violations. The right to food, one of the most important rights, was often violated by a combination of bad government policy and climatic conditions, when it was not a deliberate policy of an oppressor.

13. Collective punishment was used to break the resistance of the peoples living under occupation, and frequently involved the destruction of the means of livelihood or a denial of

basic medical care. Occupying Powers were also frequently responsible for indirect violations of economic, social and cultural rights by corrupt administrators having no interest in the well-being of the people living under occupation.

14. His organization thus fully supported the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights, and urged the Commission to establish a working group so that work could commence on that important instrument. Indeed, it hoped that the optional protocol would be optional in name only since universal ratification of the International Covenant and the optional protocol would help to reduce the number of gross violations of economic, social and cultural rights.

15. Mr. BALTI (ATLAS-Association tunisienne pour l'autodéveloppement et la solidarité) said that there was nothing inevitable about poverty and underdevelopment and the international community had shown that it could respond to a crisis. The next step was to meet the challenges of the future. His organization worked to help the poorest sections of the population in the rural areas in the north of Tunisia. It provided professional training and helped develop mountain agriculture and crafts, enabling the local people to regain their cultural heritage. Much of the work had been achieved with the aid of micro-credit for small projects with women and young people. It was an effective means of assistance and should be encouraged by Governments, the United Nations and donors. He echoed his President's call for the establishment of a world solidarity fund to finance activities that benefited the poorest people.

16. Ms. RUPPRECHT (International Institute for Peace) said that freedom of belief had to be guaranteed, particularly in multi-religious, multi-ethnic societies. Yet religious and ethnic discrimination were still rampant, sometimes resulting from age-old prejudices, but sometimes sanctioned by States. Whole sections of some societies, as in Afghanistan, had been unable to preserve their economic and other rights.

17. The mushrooming growth of terrorist groups with a global agenda was another threat to the preservation of rights. In Jammu and Kashmir, terrorist groups operating out of Pakistan and espousing a fundamentalist ideology had all but destroyed an ancient ethos of religious harmony. An entire community of Kashmiri Pandits had been driven out of their land by measures conducted in the name of religion. If reports were correct, it was the turn of the highly energetic and productive Sikh community in Indian Kashmir.

18. Increasingly, groups were emerging for which the destruction of established plural societies was God's work. They singled out specific groups such as the Jews or the Hindus as targets. It was regrettable that international terrorism had not been listed as a separate agenda item at the current session. A new global ethos incorporating immediate responses to extremism and terrorism was essential.

19. Ms. PEREIRA RAMÍREZ (Federation of Cuban Women) said that, in 1980, the number of poor people in the Latin American and Caribbean region had amounted to 136 million. In 1990, following the debt crisis, the number had risen to 198 million and in 1994 to 210 million. In other words, structural adjustment had in a mere 14 years left 74 million people in poverty.

The numbers of the very poorest had also risen; one in five Latin Americans came into that category. It would be a cruel mockery to speak to such people of their economic, social and cultural rights.

20. Cuba was striving for development to improve the quality of life and satisfy the spiritual and material needs of all its people. Unfortunately, its progress was frustrated by the senseless United States blockade, which constituted the main obstacle to the enjoyment by Cuban women and men of their human rights. The blockade had had an appreciable impact on health and nutrition and it was only the iron determination of the Government to prioritize health services that had made it possible to maintain standards. Employment had suffered, too, with the closure of factories and the loss of jobs by women workers. Her country would, however, continue to work for fair, democratic and participatory development.

21. Ms. BHATTACHARJYA (Women's International League for Peace and Freedom) said that it had become clear from two international events held by the League over the past year, one in Costa Rica and the other in Japan, that, despite the economic differences between the two countries, women workers faced similar experiences in both: increasing impoverishment, erosion of their rights and welfare services, the endangering of food security and health and a dangerous shift in State priorities. Particular difficulties were experienced in the export processing zones (EPZs), where the majority of workers were women. They were subjected to physical violence and sexual harassment. The rhythm of work was relentless and owners sometimes locked the gates, forcing the employees to work all night. If a worker fell ill, she was first laid off and then dismissed. In some corporations, trade unionists were dismissed without payment.

22. The Commission should encourage the United Nations agencies to foster initiatives to improve the rights of women workers. The High Commissioner should encourage the Member States to apply their labour and social legislation to EPZs. She should also work with the International Labour Organization (ILO) to develop programmes enabling women to realize their rights to freedom of association and collective bargaining.

23. Mr. NEELSEN (Society for Threatened Peoples) said his organization was concerned about the plight of the Tamils in Sri Lanka. Far from recognizing the country's cultural and ethnic heterogeneity, successive Governments had favoured the majority Sinhalese community, which made up 70 per cent of the nation. Ever since independence in 1948, the social, economic and cultural rights of Tamils had been violated through disfranchisement, through State-sponsored colonization of the north-east by Sinhalese settlers and through an education and recruitment policy aimed at Sinhalizing the State. Over 90 per cent of civil servants and 99 per cent of the security forces were Sinhalese. The Government was suspected of wishing to eliminate the formerly superior competitiveness of the Tamils in view of the fact that there was a surplus of 14,000 Sinhala middle-school teachers, as against a shortage of 10,000 Tamil ones.

24. The Government's constitutional proposals had been hailed as a model for solving ethnic conflicts. In fact, however, it reaffirmed the unitary State. The Tamil language was reduced to being a local vernacular. The decentralization of power gave the regions no more authority than a local council. At first the Tamils had sought to redress the systematic violation of their rights

by peaceful means, but promises had been broken and increasingly bloodier pogroms had been carried out against them. They had therefore taken up arms in 1983, with the result that 55,000 people had died, 800,000 were internally displaced and many had left the country.

25. He wondered how long the Commission would continue to listen to the reports of its own special rapporteurs and NGOs without addressing the primary causes of the massive human rights violations in Sri Lanka. By sanctifying the territorial integrity of existing States, the United Nations had effectively given carte blanche to repressive Governments vis-à-vis minority peoples. Such internal colonialism posed the greatest threat to the unity and territorial integrity of States. The Commission should thus reconsider the content and applicability of the right to self-determination. A first step would be to focus on the State-sponsored violation of social, economic and cultural rights as a potential underlying cause of conflict.

26. Mr. OWONA (International Young Catholic Students) said that international assistance was urgently required to address the education crisis in a number of countries. In the Republic of Moldova, teachers' monthly salaries amounted to less than US$ 50 and were delayed for up to five months. Many teachers were consequently abandoning the profession. In those rural schools which had managed to survive, teaching was typically carried out by non-skilled staff. Moreover, winter saw many schools having to close as a result of electricity and gas shortages. Less than 40 per cent of all library books were in Moldavan, even though it was the country's official language; the rest were in Russian. In many rural libraries, fewer than 1 per cent of books were in Moldavan. As a result of the economic crisis, many publishing houses were operating without profit; others had been forced to close.

27. In India, literacy rates remained low and nearly half the 6 to 11 year-olds received no schooling. In the Asia and Pacific region, there were 44 countries that had collaborated with United Nations agencies to promote the right to education. Although some progress had been made, particularly in terms of raising awareness, numerous disparities persisted. In particular, the quality of basic education in those countries needed to be addressed, as should the adaptation of the curricula to local requirements.

28. In Africa, the situation with respect to education remained alarming, with Governments everywhere lacking the necessary budgetary resources. At the local level, families remained largely ignorant of issues relating to discrimination against girls.

29. International aid and proceeds from the alleviation of foreign debt should be used as a priority to strengthen primary education.

30. Ms. OUHACHI VESELY (Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes) said that the human rights mechanisms should be given sufficient financial and human resources to permit them to carry out their mandates and to operate in a credible fashion. Member States should respond positively to requests by special rapporteurs to visit their countries. In view of the universality, indivisibility and interdependence of human rights, it was unacceptable that there should be a funding hierarchy, with only certain mandates benefiting from supplementary resources fed by voluntary contributions. The Commission should take vigorous measures to redress the current imbalance.

31. Human rights mechanisms should be geared less towards complaints, denunciations and sanctions and more towards developing means of helping and rehabilitating victims, inter alia through technical assistance. The Commission should also consider the role and responsibility of private entities - especially transnational companies - in safeguarding human rights, protecting the environment and promoting sustainable development.

STATEMENT BY THE MINISTER FOR HUMAN RIGHTS OF GUATEMALA

32. Mr. GODOY (Guatemala) said that his country was in the process of rebuilding democracy after 36 years of a civil war during which successive military and authoritarian regimes had pursued policies involving the worst violations of human rights endured by any Latin American country. Guatemala had been greatly assisted in that process by the international human rights apparatus and the United Nations and Inter-American systems, and had been able to make good progress in developing new institutions. It had also been able to reach a negotiated settlement to the armed internal conflict.

33. The negotiations leading to the 1996 peace agreement had covered the main issues relating to civil and political rights, fundamental freedoms and economic, social and cultural rights; and the Comprehensive Agreement on Human Rights had been signed as early as 1994. The United Nations Mission for the Verification of Human Rights in Guatemala (MINUGUA) had been monitoring the implementation of the Peace Agreements and had produced a number of reports.

34. The situation was far from perfect, however. The most serious problems related to public security and the administration of justice. A process was under way to reform and modernize the judicial system, which would take into account the recommendations made by the Special Rapporteur on the independence of judges and lawyers in the report on his mission to Guatemala (E/CN.4/2000/61/Add.1). The part played in human rights violations by State agents such as police officers and the military had been recognized, and the State had assumed responsibility for certain cases of such violations, thereby encouraging the administration of justice and helping to break down the system of impunity.

35. His Government wished to continue and extend its policy of cooperation with the organizations of the United Nations system and was in the process of formulating a national plan of action for human rights. It greatly appreciated the technical cooperation provided by OHCHR and hoped that such technical cooperation would continue. It was considering the early ratification of important international instruments including the two International Covenants on Human Rights. It had recently deposited the instrument of ratification of the Inter-American Convention on the Forced Disappearance of Persons and urged the Commission to establish a working group to prepare a convention on forced disappearances, which would categorize them as a crime against humanity. His Government had cooperated fully with the special mechanisms of the Commission (it had received visits from two special rapporteurs) and would continue to do so in the best interests of the country and its people.

36. It was vital that the Commission should continue to monitor the situation of human rights in every part of the world. The results of the special session on East Timor had been particularly

positive and he hoped that an investigation would be carried out into those responsible for the bloody events that had occurred in that country. The situation in the Balkans was still explosive, and he hoped that the international community would take more decisive action to strengthen the United Nations presence there. With regard to Chechnya, his Government recognized the sovereign right of the Government of the Russian Federation to maintain its territorial integrity and combat the separatism and terrorism fomented by rebel groups but urged it to guarantee the full application of international humanitarian law and to provide assistance and protection for the innocent victims of the conflict.

37. Guatemala, a country that was fully committed to the establishment of democracy and the rule of law, was concerned by the continued existence of numerous authoritarian and dictatorial regimes which violated the civil and political rights and fundamental freedoms of their citizens. If the Commission was going to pronounce upon that problem, all such Governments must be subjected to scrutiny without any exception: there must be no double standards.

38. His Government was committed to applying the principles contained in the 1998 Declaration on human rights defenders and supported the creation of a special mechanism for their protection. It recognized the activities of Guatemalan NGOs defending human rights in general and those working for the specific rights of children, indigenous people, women and the handicapped. His Government supported the working groups that had drawn up draft optional protocols to the Convention on the Rights of the Child, and urged that they should be adopted and ratified forthwith, so as to increase the protection of the rights of the child. It attached particular importance to the draft protocol on the prevention of the sale of children, child prostitution and child pornography since, unfortunately, such problems did exist in Guatemala, as had been stated in the report of the Special Rapporteur on the subject. Such problems could be decisively tackled only through cooperation between States.

39. Guatemala, as a multi-ethnic, multicultural and multilingual society, was particularly interested in contributing to the international efforts to promote and protect the rights of indigenous peoples. The Peace Agreements had recognized the concept of indigenous peoples within a unified and indivisible State: he believed that that concept was fundamental to the success of the working group on the draft declaration on the rights of indigenous peoples. He urged the Commission to adopt at its current session a draft decision on the establishment of a permanent forum for indigenous people.

40. He had noted with satisfaction the consensus reached in the working group on enhancing the effectiveness of the mechanisms of the Commission and urged all States to continue to support those mechanisms in order to render more effective the promotion and protection of human rights throughout the world. International cooperation was essential: such cooperation had played a vital role in the Guatemalan peace process. Far from infringing upon national sovereignty, it had in fact strengthened that sovereignty, helped Guatemala to consolidate its democratic system and encouraged development.

41. He urged the Commission to continue the negotiations in the working group on a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

42. His Government hoped to give whatever support it could to the preparations for the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which should help to stem the recent upsurge in racism, racial discrimination and xenophobia throughout the world.

43. His delegation believed that the Commission should continue to focus on the human rights of migrants and that the mandate of the Special Rapporteur should be strengthened. He also hoped that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families would be universally ratified. Moreover, if human rights were to be effectively applied, discrimination against women must be fully addressed.

44. Public policy must be dictated by a vision of sustainable human development if economic, social and cultural rights were to be realized. Governments must be democratic and based on the rule of law if public policies were to be directed to the reduction of poverty and the promotion of such rights as health and education. His Government had therefore noted with satisfaction the recommendations made in the joint report by the Special Rapporteur on the effects of foreign debt and the independent expert on structural adjustment policies (E/CN.4/2000/51). Special consideration must be given to the foreign debt of countries coping with humanitarian disasters. Schemes such as the Bolsa Escola scholarship programme in Brazil were extremely interesting and his Government was considering the introduction of a similar programme.

STATEMENT BY THE MINISTER FOR HUMAN RIGHTS OF THE DEMOCRATIC REPUBLIC OF THE CONGO

45. Mr. SHE OKITUNDU (Democratic Republic of the Congo) said that his Government's principal aim was to restore the dignity of the Congolese people and install a State governed by the rule of law. In view of the institutional disorder inherited from the previous regime, it had been necessary to take certain steps, such as suspending the activities of political parties - of which there had been 350, in accordance with article 4 of the International Covenant on Civil and Political Rights.

46. The Government's aims had, however, been frustrated by the war of aggression waged by Rwanda, Burundi and Uganda, which had for almost two years occupied a large area in the east and north of the country, with the avowed intent not only of destabilizing the Kinshasa Government but also of plundering the country's mineral and natural resources for the aggrandizement of some ruling groups in the aggressor States. They also intended to clear some Congolese territory of its population and resettle it with Tutsis.

47. The aggression had been denounced on many occasions, most notably by the Central African States and the Security Council, whose resolution 1234 (1999) of 9 April 1999 called for the withdrawal of uninvited troops. It was gratifying to note that the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo had reconsidered his views and recognized the conflict as being of an international nature.

48. The war of aggression inevitably affected the human rights situation, since it lay at the root of all other human rights violations. His Ministry had compiled an inventory in four

volumes of all the human rights violations perpetrated in the east of the country by Rwanda, Burundi and Uganda. OHCHR had been apprised of the contents on several occasions. Some of the most horrifying acts included the burial alive of 15 women in Muenga in November 1999 and the battle between the Ugandan and Rwandan armies on Congolese territory at Kisangani over the control of mineral wealth, in which over 300 Congolese civilians had died. In that context he recalled the inter-ethnic confrontations between the Hema and the Lendu, two Congolese peoples, backed by the Ugandan forces, which had left 5,000 dead and 10,000 wounded, all Congolese. The international community, including some great Powers which played a special role in the world's affairs, had, while trumpeting the universality of human rights, remained silent about the situation in his country.

49. Despite the war, his Government was constantly striving to promote and protect the human rights of its people and foreigners in its territory. To that end, it had adopted a National Plan of Action in December 1999, in the preparation of which OHCHR had given assistance. It had also issued guidelines on the demobilization and reintegration of child soldiers, following an African forum, supported by the United Nations Children's Fund (UNICEF), held in December 1999. He asked for help from the international community for the implementation of the two instruments.

50. Mindful of its international commitments, his Government and people had continued to protect thousands of ethnic Tutsis made vulnerable by the war. Over 2,000 had freely left the Democratic Republic of the Congo, either for one of the three aggressor countries or for the United States of America. The Government had acted without requiring reciprocity, although it had been asserted that many Congolese had been deported to Rwanda, Burundi and Uganda since the start of hostilities. The fate of those compatriots was a constant matter of concern for his Government. It had always been open in all that concerned the promotion and protection of human rights, as the latest two visits by the Special Rapporteur and visits by Amnesty International and other NGOs demonstrated.

51. Several accusations have been levelled against his country for the absence of democracy, arbitrary arrests, applying the death penalty and for the fact that the Military Court was not in keeping with its commitments. Most of those violations were closely linked with the state of war. Over 80 per cent of cases of so-called arbitrary arrest were aimed at preventing treason or collusion with the enemy. More than 80 per cent of those sentenced to death and actually executed were soldiers, prosecuted for actions in the field.

52. His Government was, nevertheless, conscious of its duty to preserve the inviolable nucleus of human rights. Unequivocal and substantial support from the United Nations system would be required to achieve that objective. As for the lack of democracy, he recalled that the new Government had given itself two years to clear up the national political scene. That timetable had not been much delayed in comparison with the many years of transition in other States of the region.

53. To justify their incursion into the country, the Rwandans had cited the presence on Congolese territory, of Interahamwe guilty of genocide, the need to protect ethnic Tutsis in the Congo and the need to secure their borders. Those arguments did not hold water. The 1994

genocide in Rwanda had been a humanitarian disaster meriting compassion; but it was a barbarous action perpetrated by Rwandans against other Rwandans, with the complicity of the international community. The Congolese people had had nothing to do with it, although they had borne the brunt of 1.5 million Rwandan refugees. The Tutsi extremists in power were unfortunately using the genocide as a way of attracting international sympathy and thus justifying their own aggression. His country was a party to the Convention on the Prevention and Punishment of the Crime of Genocide and would not, in any case, aid and abet any person, whatever his origin, who was prosecuted for genocide. The many Hutus currently living in his country, like the many Tutsis who had lived there for decades, were not necessarily guilty of genocide. They, too, deserved protection and assistance. It was, moreover, strange that, after decades of mutual massacres between Tutsi and Hutu, some groups claimed to discern a potential genocide of Tutsis in Congolese territory. The international community should not fall into the trap laid by the Rwandans, who were trading on the 1994 genocide.

54. He called on the Commission to issue a formal condemnation of the presence of uninvited foreign armed troops on Congolese territory and demand their withdrawal; to reactivate the joint mission to investigate all massacres carried out in the Democratic Republic of the Congo since 1996; to condemn the plundering of the country's resources and environment, leading to the illegal export of the country's mineral wealth; and to provide real assistance for the 1 million or more people displaced by the war.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

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(agenda item 11) (E/CN.4/2000/3 and Add.2-3, 4 and Add.1-2, 9 and Add.1-4, 54-55, 56 and Add.1-2, 57-59, 60 and Add.1, 61/Add.1 and 2, 62, 63 and Add.2-4, 64 and Add.1, 115, 125, 126, 132, 133 and 135; E/CN.4/2000/NGO/2, 6, 9, 10, 20, 27, 29, 33, 41, 45, 50, 60, 62-64, 78-81, 91, 92, 95, 104-106, 111, 118, 126, 129-135, 138, 141 and 143; E/CN.4/Sub.2/1999/27; A/54/177 and Corr.1)

55. Mr. TOSEVESKI (Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances), introducing the Working Group's twentieth annual report (E/CN.4/2000/64), said that the Working Group had abided by the 32-page limit, albeit with

difficulty. Of the 49,070 cases of disappearance in the Working Group's books, 46,054 were being kept under active consideration. In that connection, it was to be regretted that the Governments of 33 of the 69 countries with unclarified cases had failed to respond to communications. The Commission should urge them to improve their process of clarification of cases, to develop comprehensive forensic programmes and to compensate the families of deceased victims. Although many of the unresolved cases dated back to the 1970s or early 1980s, that did not affect the right of relatives to know the exact fate and whereabouts of victims.

56. Progress in the domestic implementation of the Declaration on the Protection of All Persons from Enforced Disappearance remained extremely slow, with only very few countries - such as Guatemala, Mexico and Peru - specifically criminalizing enforced disappearance in domestic legislation.

57. The Working Group appreciated the cooperation of concerned Governments. Invitations had been received from the Governments of Colombia and the Islamic Republic of Iran to visit those countries, although no dates had as yet been established. The Government of Sri Lanka had also invited the Working Group to pay a third visit to the country in October 1999 (E/CN.4/2000/64/Add.1). The Commission should support and encourage such official visits, since they were useful not only to the Working Group but also to the Governments concerned.

58. The Working Group much regretted the dramatic reduction in its secretariat in recent years, particularly in view of the exponential increase in its workload. For instance, a Government had recently submitted information concerning more than 4,000 cases and an adequate number of staff members were needed if the information was to be entered into the database, transmitted to relatives and considered by the Group.

59. On the occasion of the Working Group's twentieth anniversary, he wished to extend particular thanks to the Government of France for being the first to raise the issue of enforced disappearance within the Commission.

60. Sir Nigel RODLEY (Special Rapporteur on the question of torture), introducing his report (E/CN.4/2000/9 and Add.1-4), said that, in 1998, he had visited Cameroon, Romania, Kenya, and East Timor. His reports on those visits were contained in documents E/CN.4/2000/9/Add.2-4 and E/CN.4/2000/115 respectively. Agreement had yet to be reached with the Government of China on the modalities and duration of his planned visit in 2000. Since producing his report he had also received an invitation from the Government of Azerbaijan, but his requests to visit Algeria, Bahrain, Brazil, Egypt, India, Indonesia and Tunisia had yet to result in official invitations. The Governments of Equatorial Guinea and Togo had issued unsolicited invitations in response to routine requests for information.

61. Replies to allegations and urgent appeals contained in his report (E/CN.4/2000/9) had since been received from a number of States, namely, Algeria, Bangladesh, Belarus, Brazil, Egypt, Ethiopia, Germany, India, Indonesia, the Islamic Republic of Iran, Peru,

the Russian Federation and Turkey, and from the Palestinian Authority. Document E/CN.4/2000/9/Add.1 contained information received in 1998 from the Governments of Chile, Colombia, Mexico and Venezuela, which had not been processed that year because of resource limitations.

62. During his visit to Cameroon (E/CN.4/2000/9/Add.2), he had met numerous people who showed signs of what could only have been recently inflicted physical torture and had concluded that law-enforcement officials resorted to torture on a widespread and systematic basis and that torture was condoned, if not encouraged, in detention centres. He was particularly concerned that members of an NGO that had provided him with information on an "anti-gang" unit had allegedly been harassed by members of that unit only a few days after his visit. It was to be hoped that the recent ministerial reshuffle in Cameroon would result in substantial improvement in the treatment of persons deprived of their freedom in that country.

63. In Romania (E/CN.4/2000/9/Add.3), sporadic cases of police abuse persisted, as had been acknowledged by the Government. The investigation system was ineffective and there was an urgent need to address gross overcrowding in the prison system.

64. In Kenya (E/CN.4/2000/9/Add.4), a number of officials had acknowledged that there was physically rough treatment of suspects by the police, which routinely included sustained beatings on all parts of the body. It was clear that the practice was widespread and systematic, and that a general sense of impunity prevailed.

65. High-profile cases of torture in the world tended to involve people engaged in political activities or connected with organizations that had international contacts. However, it was clear that the overwhelming majority of persons subjected to ill-treatment and torture were ordinary common criminal suspects from the lowest strata of society. Typically, such persons were unable to afford good lawyers, and their families did not have the connections to be taken seriously by law-enforcement personnel. Such persons also tended to be ignorant of their rights - including the right not to be tortured. As long as the international community failed to address the problem of the poor, the marginalized and the vulnerable, it contributed, both indirectly and directly, to a vicious circle of brutalization that undermined shared aspirations for a life of dignity and respect for all.

66. Mr. NGOUBEYOU (Observer for Cameroon) said that there was no deliberate policy of using torture in his country and that there was a commitment on the part of his Government to prevent the practice and punish those who engaged in it. There had been a law against torture since 1997, and prosecutions had taken place even of senior police officials and soldiers, with heavy sentences being handed down. The prevention and eradication of torture were constant concerns of the Government, which was promoting human rights education and encouraging a human rights culture in the police, army and prison service.

67. The National Committee on Human Rights and Freedoms investigated alleged incidents, and made recommendations and observations to the Government. There were, unfortunately, occasional cases of torture, but it did not represent a standard practice and was not aimed at a particular category of people, as the Special Rapporteur had concluded. Despite the preventive

measures that were taken, mistakes were inevitable due to human folly; the accusation that Cameroon practised torture in a "systematic" manner was unfounded, unjustified and excessive.

68. On the subject of the special units of the gendarmerie, it should be noted that there was a lack of security in the north of the country caused by the activities of bandit gangs. The special units had been set up to protect the population; their purpose was not to torture individuals. However, unfortunate incidents had occurred, usually during attacks by armed highway robbers, and investigations were being carried out.

69. As for the conditions of detention in prisons, Cameroon had had a prisons policy since 1992, and had created a system of inspections in 1995. A decree by the Minister of Territorial Administration specified punishments for the ill-treatment of detainees, without prejudice to subsequent legal action. Objectively, there was no reason to doubt his Government's determination to deal with the matter, although there had regrettably been a number of reported cases in detention centres resulting from human folly and prison overcrowding. Prison staff henceforth received human rights education and training.

70. In July 1999, Cameroon had signed a cooperative convention on the promotion of human rights, one part of which dealt with the improvement of conditions of detention. In order to find a lasting solution to the problem, Cameroon would like to be able to count on the support of the international community.

71. In the circumstances, it seemed to be an exaggeration to arrive at the conclusion, as the Special Rapporteur had done, that torture was practised systematically, that impunity was general in places of detention, and that there was complicity on the part of the authorities. Nevertheless, his Government was ready to follow up his recommendations and observations and to consider constructive proposals for reform and improvement in all the areas dealt with in his report, although it regretted that the report did not give sufficient attention to the considerable progress the country had made in protecting and promoting human rights.

72. Mr. AZAD RANA (Observer for Kenya) thanked the Special Rapporteur for his well-balanced and comprehensive report and assured him that his Government was very keen to improve its human rights situation, particularly as it related to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Kenya was also dedicated to promoting awareness and understanding of fundamental human rights within the law-enforcement and judicial systems, as well as within the entire system of government. A bill would be tabled during the current session of parliament to transform the Standing Committee on Human Rights into a national human rights commission with autonomy, resources and powers to conduct investigations into human rights abuses, instigate criminal proceedings and enhance training programmes. His Government had embarked upon a number of institutional and structural reforms to promote and consolidate democracy, and the judiciary was undergoing radical structural change to streamline its independence and effectiveness.

73. His Government had cooperated fully with the Special Rapporteur, regarding his mission as complementing its own efforts to reform law enforcement and the administration of justice. The meetings he had held in Kenya were indicative of the Government's commitment to improving the situation of human rights in the country.

74. Kenya's key development priorities were based on the need to alleviate poverty and its attendant problems, but it had limited resources and had been unable to devote much to improving its law-enforcement system. The living conditions of the police and the prison staff were seriously inadequate, and public service pay levels in general were a major source of concern.

75. Torture was prohibited under Kenyan law and the Government did not allow or condone its use by law-enforcement officers. Indeed, it had taken steps to bring to the attention of all its agents the legal prohibitions against the practice and use of torture on suspects, persons in pre-trial detention, and prisoners. Kenyan courts excluded confessions and admissions obtained as a result of torture or the threat thereof. Kenyan law provided civil remedies for persons able to prove that they had been subjected to torture by law-enforcement officers. Very few such civil cases had yet been heard, but once the legal and administrative reforms were in place the victims of torture would be able to seek and obtain redress more easily.

76. His Government regretted that, in the course of their duties, some law-enforcement officers had at times used inhuman investigative measures, employing degrees of force on those in their custody that amounted to torture and ill-treatment as defined in international standards. To address the problem, the Government had included a course on human rights in law-enforcement training institutions. Despite the severe economic constraints under which Kenya had long been operating, the Government had endeavoured to secure acceptable and humane conditions in police cells and prisons. Moreover, to reduce prison overcrowding, it had embarked on a penal reform aimed at prescribing non-custodial sentences for petty offenders.

77. His Government had taken careful note of the Special Rapporteur's recommendations, which were a good foundation upon which to address cases of alleged torture and proven instances of torture. They would be taken into account in its efforts to eradicate torture from Kenya's law-enforcement and judicial system.

78. Mr. TOSEVSKI (United Nations Voluntary Fund for Victims of Torture) said that some 180 new requests had been received during the year to finance humanitarian, economic, social, legal, medical and psychological assistance to victims of torture and members of their families, amounting to a total of some US$ 10 million. The figure for 1999 had been US$ 6.8 million. Contributions - from 23 Governments and two individuals - amounted to some US$ 2 million, compared with US$ 5.8 million in 1999. An additional US$ 8 million was therefore needed to satisfy all the requests. In the resolution adopted on torture at the fifty-fifth session (1999/32), the Commission appealed to all Governments, organizations and individuals to contribute annually to the Fund, if possible with a substantial increase in the size of those contributions. The Commission had also taken note of the request of the Fund's Board of Trustees that contributions be paid before its annual session in May.

79. Pledges had so far been made for about US$ 5.6 million - by the Governments of Algeria, Brazil, Chile, France, the Philippines, Tunisia, Turkey, the United Kingdom and the United States of America - and those pledges and additional contributions had to be paid

before 30 April 2000. At its annual session from 15 to 26 May 2000, the Board of Trustees would be able to consider only contributions paid and duly registered by the United Nations Treasurer, not pledges. Any contribution paid after 30 April 2000 could be taken into consideration only in 2001. He thus encouraged donors which had pledged a contribution to pay it before the end of the Commission's current session and also invited new donors to contribute. An information meeting between interested donors and the Board of Trustees would be held on 26 May 2000.

80. Mr. JOINET (Vice-Chairman of the Working Group on Arbitrary Detention), introducing the Working Group's report (E/CN.4/2000/4 and Add.1 and 2), thanked the Governments of Costa Rica, Saudi Arabia and Turkey for their replies to urgent appeals received after the Working Group's report had been submitted. The number of urgent appeals transmitted by the Working Group had increased in the past year, and critical comments from Governments had fallen into two broad categories: that the appeals did not seem to them to be sufficiently "urgent" and that the appeals needed to be better coordinated. The Working Group had placed the issue on its agenda for its next session, to be held from 15 to 19 May 2000, and would make its views known at the next annual meeting of special rapporteurs to be held from 5 to 9 June 2000.

81. The number of opinions adopted by the Working Group had also increased. Some were of thematic interest. One (No. 9/1999), concerning pollution of the Black Sea by a defective Russian nuclear submarine, had led the Working Group to establish a new criterion according to which "damage to or protection of the environment [is] an issue that [knows] no boundaries. Consequently, it should be possible freely to engage in ecological criticism: this forms part of the right to freedom of expression 'regardless of borders'". The second thematic opinion (No. 21/1999) concerned the question of whether the right to criticize in a country had to be expressed individually only or whether it could be expressed collectively by an association or a political party. The third thematic opinion (No. 19/1999) concerned the question of whether the dissemination of documentation concerning human rights violations beyond the frontiers of the State concerned constituted a violation of that State's secrecy.

82. Another, a legal opinion, concerned the situation in the Al-Khiam prison in southern Lebanon where there were a number of alleged cases of arbitrary detention. The Government of Israel had said that the matter did not concern it and that the Working Group should approach the so-called "South Lebanon Army (SLA)". The Working Group took the view that it was justified in addressing the communications and urgent appeals concerning detention at Al-Khiam to the Government of Israel, inasmuch as it had been sufficiently demonstrated that the SLA was acting on behalf of the Israeli Defence Forces.

83. There had been one in situ visit, to Indonesia (E/CN.4/2000/4/Add.2), a country which had achieved some very positive developments despite difficulties; the Working Group congratulated the Government of Indonesia on having freed all the political prisoners on its list. It also welcomed the recent law establishing an Indonesian national human rights commission. Following difficult negotiations, the Government of Bahrain had formally invited the Working Group to undertake a mission to that country in 2001.

84. Turning to the Working Group's procedure for following up visits, he said that it was grateful for the replies received from the Governments of Nepal, Bhutan and China. There had so far been no replies from the Government of Viet Nam.

85. In accordance with Commission resolution 1997/50, the Working Group had devoted particular attention to the situation of immigrants and asylum-seekers, and thanked the Governments of the United Kingdom and Romania for their cooperation in two visits carried out during the year.

The meeting rose at 1.05 p.m.